

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

MALEEHA AHMAD, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 4:17-cv-2455-RLW
	)	
CITY OF ST. LOUIS, MISSOURI,	)	
	)	
Defendant.	)	

**Plaintiffs' Statement of Undisputed Facts**

As directed by the Court in its Order dated September 25, 2017, Plaintiffs respectfully submit this statement of undisputed facts:

1. A Missouri state court acquitted St. Louis Metropolitan police officer Jason Stockley of first-degree murder on the morning of Friday, September 15, 2017. (ECF No. 11-1.)
2. Stockley, who is white, had been charged and prosecuted by the St. Louis Circuit Attorney for killing Anthony Lamar Smith, who was African American, in late 2011. Stockley shot Smith—whom he suspected had engaged in a drug deal—at point-blank range after a brief car chase. Stockley asserted the shooting had been in self-defense; the prosecution argued otherwise. (*Id.*)
3. Some people swiftly condemned the verdict, which they view as a product of institutional racism and unfair bias in favor of the police. (ECF No. 11-7 at ¶ 3; ECF No. 11-16 at ¶ 2.)
4. Public protests and other public actions began on September 15 and have occurred every day since September 15. They are planned for the foreseeable future. (ECF No. 21-1.)

5. St. Louis Metropolitan police officers sprayed nonviolent protestors and observers with a chemical agent without warning at a criminal justice-related protest in November 2014. (ECF No. 11-11 at ¶ 29.)
6. St. Louis Metropolitan police officers sprayed nonviolent protestors and observers with a chemical agent without warning at a criminal justice-related protest in May 2015. (ECF No. 11-13 at ¶ 13.)
7. St. Louis Metropolitan police officers sprayed nonviolent protestors and observers with a chemical agent without warning at a criminal justice-related protest in August 2015. (ECF No. 11-11 at ¶ 31; ECF No. 11-23 at ¶ 2.)
8. St. Louis Metropolitan police officers sprayed nonviolent protestors and observers with a chemical agent without warning at a criminal justice-related protest in July 2017. (ECF No. 11-13 at ¶ 13.)
9. On the afternoon of September 15, on multiple occasions, St. Louis Metropolitan police officers sprayed nonviolent protestors and observers with a chemical agent without giving a warning. (ECF No. 11-2 at ¶ 10; ECF No. 11-3 at ¶ 17; ECF No. 11-4 at ¶ 6; ECF No. 11-5 at ¶ 9; ECF No. 11-13 at ¶ 4; ECF No. 11-16 at ¶ 7; ECF No. 11-23 at ¶ 3.)
10. On the evening of September 15, St. Louis Metropolitan police officers deployed multiple chemical agents against nonviolent protestors and observers without giving a warning. (ECF No. 11-6 at ¶¶ 20, 22, 25; ECF No. 11-7 at ¶ 16; ECF No. 11-9 at ¶¶ 4-6; ECF No. 11-10 at ¶¶ 5-7; ECF No. 11-11 at ¶¶ 11, 12, 15, 20, 26; ECF No. 11-18 at ¶ 5.)
11. On the evening of September 17, St. Louis Metropolitan police officers sprayed nonviolent protestors and observers with chemical agents without giving a warning. (ECF No. 11-8 at ¶¶ 8, 9, 15, 22; ECF No. 11-10 at ¶¶ 10, 14; ECF No. 11-12 at ¶¶ 8, 20, 21,

- 22, 25; ECF No. 11-13 at ¶¶ 6, 7, 8, 11; ECF No. 11-15 at ¶¶ 9, 15, 16, 17; ECF No. 11-17 at ¶¶ 9, 12; ECF No. 11-18 at ¶¶ 10, 18; ECF No. 11-19 at ¶¶ 5, 8, 9, 10, 11, 12; *see also* ECF No. 11-20 at ¶¶ 9, 14; ECF No. 11-21 at ¶¶ 10, 12, 13, 14; ECF No. 11-22 at ¶¶ 8, 12, 13; ECF No. 11-23 at ¶ 4.)
12. On the evening of September 29, St. Louis Metropolitan police officers sprayed nonviolent protestors and observers with chemical agents without giving a warning. (ECF No. 29 at ¶¶ 9, 10.)
  13. Since September 15, St. Louis Metropolitan police officers have retaliated against livestreamers and videographers on multiple occasions by deleting video, conducting unlawful searches, damaging video equipment, using unnecessary force when conducting arrests, and deploying chemical agents. (ECF No. 11-5 at ¶¶ 7, 8, 9; ECF No. 11-6 at ¶¶ 12; ECF No. 11-11 at ¶ 10; ECF No. 11-12 at ¶¶ 20, 21, 22; ECF No. 11-13 at ¶¶ 4, 11; ECF No. 11-14 at ¶¶ 3-17; ECF No. 11-15 at ¶¶ 2, 4, 14-19; ECF No. 11-19 at ¶ 11; ECF No. 29 at ¶¶ 7, 8, 9; Attachments to ECF Nos. 11-5 and 11-6, filed via DVD with the Court; Attachment to ECF No. 29, filed via DVD with the Court.)
  14. On the evening of September 17, SLMPD officers also employed a tactic known as “kettling,” trapping protestors (as well as members of the media, legal observers, nearby residents, and an undercover police officer) in the intersection of Washington and Tucker Avenues. (*See generally* ECF Nos. 11-8, 11-10, 11-12, 11-13, 11-15, 11-17, 11-18, 11-19, 11-20, 11-21, and 11-22.)
  15. The officers wore personal protective equipment, gas masks and helmets, and they carried full-body shields and batons, which many officers beat rhythmically on the

ground. (*See, e.g.*, ECF No. 11-15 at ¶ 11; ECF No. 11-18 at ¶ 11; Attachment to ECF No. 11-15, filed via DVD with the Court.)

16. Though there was no threat to their safety, SLMPD officers fanned out along each of the crosswalks, cutting off all routes of egress, and then rushed and arrested the hundred or so people who got caught inside the kettle. Officers sprayed arrestees who were already compliant, subdued, and kneeling or lying on the ground. Many of the arrestees sustained serious injuries. (*See generally* ECF Nos. 11-8, 11-10, 11-12, 11-13, 11-15, 11-17, 11-18, 11-19, 11-20, 11-21, and 11-22; *see also* ECF No. 11-23 at ¶ 4.)
17. The officers did not provide to the people adequate warning or opportunity to disperse before kettling them. In fact, before the kettle, individual officers had directed pedestrians *toward* the intersection where they formed the kettle. (*See* ECF No. 11-12 at ¶ 10; ECF No. 11-13 at ¶ 6; ECF No. 11-20 at ¶ 7; ECF No. 11-22 at ¶ 6.)
18. The police chanted “Whose streets? Our streets!” after they had arrested the nonviolent people they had trapped and subdued. (ECF No. 11-10 at ¶ 11; Attachment to ECF No. 11-12, filed via DVD with the Court.)
19. At times, St. Louis Metropolitan police officers have given pedestrians no warning at all before deploying chemicals indiscriminately or taking other actions of force. (*See, e.g.*, ECF No. 11-2 at ¶¶ 10, 13; ECF No. 11-3 at ¶¶ 17-21; ECF No. 11-14 at ¶¶ 6-8; ECF No. 11-16 at ¶ 7.)
20. At other times, the police have provided vague, haphazard instructions in some attempt to enforce the City’s “unlawful assembly” and “failure to disperse” ordinances. These warnings have been either far away from the sites of the officers’ eventual enforcement, based on insufficient cause, and/or issued simultaneously with the use of force or at a

point too remote in time to justify their actions. (*See, e.g.*, ECF No. 11-13 at ¶¶ 5, 6; ECF No. 11-15 at ¶ 8; ECF No. 11-20 at ¶ 7; ECF No. 11-21 at ¶ 7; ECF No. 11-23 at ¶ 4; *see also* ECF No. 11-14 at ¶¶ 10, 16, 17.)

21. On the evenings of September 17 and October 3, St. Louis Metropolitan police officers have arrested not only nonviolent protestors and observers, but also people who were not engaged in protest or observation but who just happened to be standing or walking near protestors and observers. (*See* ECF Nos. 11-20, 11-21, 11-22, 11-23 and 28.)
22. Plaintiffs have refrained from expressive activity they would otherwise have engaged in because they reasonably fear enforcement of unconstitutional customs by SLMPD, including the deployment of chemical munitions without warning; the threat of and use of force in retaliation for recording or observing police action; and the arbitrary enforcement of the City's "unlawful assembly" and "failure to disperse" ordinances. (*See* ECF No. 11-2 at ¶¶ 21-25; ECF No. 11-3 at ¶¶ 25-28; ECF No. 11-14 at ¶¶ 18-21.)
23. These constitutional violations are not one-time occurrences but are part of an ongoing practice.

Respectfully submitted,

/s/ Anthony E. Rothert  
Anthony E. Rothert, #44827  
Jessie Steffan, #64861  
American Civil Liberties Union of Missouri  
Foundation  
906 Olive Street, Suite 1130  
St. Louis, Missouri 63101  
(314) 652-3114  
(314) 652-3112 (facsimile)  
arothert@aclu-mo.org  
jsteffan@aclu-mo.org

Gillian R. Wilcox, #61278  
406 West 34th Street, Suite 420  
Kansas City, Missouri 64111  
American Civil Liberties Union of Missouri  
Foundation  
(816) 470-9938  
gwilcox@aclu-mo.org  
*Attorneys for Plaintiffs*

**Certificate of Service**

A copy of the foregoing was filed with the CM/ECF system on October 12, 2017 and thereby made available to all counsel of record.

/s/ Anthony E. Rothert